

1 TONY WEST
Assistant Attorney General
2 MELINDA L. HAAG
United States Attorney
3 JOHN TYLER
Assistant Branch Director
4 KIMBERLY L. HERB
Illinois Bar No. 6296725
5 Trial Attorney
Civil Division, Federal Programs Branch
6 U.S. Department of Justice
P.O. Box 883
7 Washington, D.C. 20044
Telephone: (202) 305-8356
8 Facsimile: (202) 616-8470

9 Attorneys for DEFENDANTS

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 ELECTRONIC FRONTIER FOUNDATION,)
16)

17 Plaintiff,)

18 vs.)

19 DEPARTMENT OF DEFENSE, ET AL.,)

20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

Case No. 3:09-CV-05640-SI

**JOINT STIPULATION AND
[PROPOSED] ORDER TO CONTINUE
DATE OF CASE MANAGEMENT
CONFERENCE**

Date: January 14, 2011
Time: 2:30 p.m.
Courtroom: 10, 19th Floor

1 Plaintiff Electronic Frontier Foundation (EFF) and Defendants Department of Defense, et al
2 hereby stipulate to and respectfully request that this Court continue the date of the Case
3 Management Conference (CMC) from January 14, 2011 to January 28, 2011. Plaintiff filed a
4 Motion for Consolidation of Cases on December 22, 2010. (Dkt. No. 30.) That motion is
5 calendared for argument before this Court on January 28, 2011. Because the case management
6 schedule is largely dependent on what is discussed and decided as a result of that motion, the
7 parties believe that it would be most beneficial to discuss case management on the same day as the
8 motion for consolidation.

9 On June 10, 2010, the parties filed a stipulation and proposed order to change time for filing
10 dispositive motions until after the CMC on July 16, 2010. The Court signed the proposed order on
11 July 6, 2010. On July 9, 2010, the parties filed a Joint Case Management Statement and appeared
12 for the CMC on July 16, 2010. At that time, the parties informed the court that they planned to
13 meet and confer by August 31, 2010 to determine the issues remaining in this action and to propose
14 a timeline for the resolution of those issues. The parties met on August 30, 2010 and discussed a
15 tentative motion schedule. On September 3, 2010, the parties filed a stipulation and proposed order
16 to continue the CMC to allow Plaintiff time to review Department of Justice Criminal Division's
17 final release of documents on September 30, 2010. The Court granted the motion on September 8,
18 2010 and continued the CMC to October 26, 2010. On October 19, 2011, the parties filed a
19 stipulation and proposed order to continue the CMC because the parties had submitted a proposed
20 schedule for resolution of the case.

21 The requested time modification should not adversely affect the Court's schedule because
22 the parties have proposed a schedule for resolving the case and are in active discussions about
23 narrowing the issues requiring the Court's attention.
24
25
26
27
28

DATED: January 7, 2011

Respectfully submitted,

/s/ Jennifer Lynch

ELECTRONIC FRONTIER FOUNDATION

Jennifer Lynch, Esq.

Marcia Hoffman, Esq.

454 Shotwell Street

San Francisco, CA 94110

Telephone: (415) 436-9333

Facsimile: (415) 436-9993

E-mail: jlynch@eff.org

TONY WEST

Assistant Attorney General

JOSEPH P. RUSSONIELLO

United States Attorney

JOHN TYLER

Assistant Branch Director

Jason M. Schultz

SAMUELSON LAW, TECHNOLOGY &

PUBLIC POLICY CLINIC

UC Berkeley School of Law

396 Simon Hall

Berkeley, CA 94720-7200

Telephone: (510) 642-0499

Facsimile: (510) 643-4625

E-mail: jschultz@law.berkeley.edu

/s/ Kimberly L. Herb

Kimberly L. Herb

Trial Attorney

United States Department of Justice

Civil Division, Federal Programs Branch

20 Massachusetts Ave. NW

Washington, DC 20530

Telephone: (202) 305-8356

Facsimile: (202) 616-8470

E-mail: Kimberly.L.Herb@usdoj.gov

Attorneys for Plaintiff

Attorneys for Defendants

GENERAL ORDER NO. 45(X) CERTIFICATION

I attest that I have obtained Jennifer Lynch's concurrence in the filing of this document.

/s/ Kimberly L. Herb

Kimberly L. Herb

* * *

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____



Hon. Susan Ilston

United States District Judge